

REMARKS

Claims 1 – 4 and 11 - 26 are pending in the present application. Claims 5 – 10 are canceled by the present amendment, and claims 21 – 26 are newly added. Reconsideration of the application is respectfully requested.

In the Office Action Summary, item 12, regarding an acknowledgement of Applicants' claim to priority under 35 U.S.C. 119, appears to be incomplete. More specifically, one of boxes "1", "2" or "3" should be checked to indicate whether the Office has received certified copies of the priority documents. Applicants respectfully request that in the next communication, the Office please indicate whether the Office has received certified copies of the priority documents.

On page 2 of the Office Action, claim 16 is rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants are amending claim 16 so that it is directed to a data storage media that includes program data for controlling a first computer entity to perform a method. Applicants respectfully submit that a data storage media that includes program data for controlling a first computer entity is an article of manufacture, and that therefore, claim 16 fulfills the requirements of 35 U.S.C. 101. Accordingly, Applicants are requesting a withdrawal of the section 101 rejection of claim 16.

On page 3 of the Office Action, claims 1 – 16 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending Application No. 10/818,512. Whereas this rejection is a provisional rejection, Applicants are not presently addressing this rejection.

On page 3 of the Office Action, claims 1 – 3, 5 – 7 and 10 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,127,613 to Pabla et al. (hereinafter "the Pabla et al. patent"). Claims 1, 11, 16, 17, 19 and 20 are independent claims. Applicants are clarifying aspects of claims 1, 11, 16, 17, 19 and 20 that are not disclosed by the Pabla et al. patent.

Claim 1 provides for a method performed by a first computer entity. The method includes, *inter alia*, operating a peer to peer protocol, and operating a process for managing a second computer entity. The process utilises a resource of the first computer entity, and is invoked when the resource is not being used by a service application at a higher level layer than the peer to peer protocol.

The specification, in a passage at page 9, line 31 – page 10, line 8, describes the above-noted feature of claim 1. In particular, the passage explains that a computer has a set of resources and includes a set of higher level services. The passage also explains that a network management component uses the resources, when the resources are not being used by the higher level services. FIG. 4 is a schematic of logical components of such a computer.

The Pabla et al. patent does not appear to disclose a method that includes a first computer entity operating a process that **utilises a resource of the first computer entity**, and is **invoked when the resource is not being used** by a service application at a higher level layer than the peer to peer protocol, as recited in claim 1. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 1.

Claims 2 and 3 depend from claim 1. By virtue of this dependence, claims 2 and 3 are also novel over the Pabla et al. patent.

Claims 5 – 7 and 10 are canceled. As such, the rejection of 5 – 7 and 10 is rendered moot.

Claim 11 provides for a first computer entity. The first computer entity includes, *inter alia*, a network management component for enabling the first computer entity to participate in management of a peer to peer network. The network management component operates a process for managing a second computer entity in the peer to peer network, and the process utilises a resource of the first computer entity, and is invoked when the resource is not being used by a service application at a higher level layer than the peer to peer protocol.

The Pabla et al. patent does not appear to disclose a first computer entity having a network management component that operates a process that **utilises a resource of the first computer entity**, and is **invoked when the resource is not being used** by a service application at a higher level layer than the peer to peer protocol, as recited in claim 11. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 11.

Claims 12 – 15 depend from claim 11. By virtue of this dependence, claims 12 – 15 are also novel over the Pabla et al. patent.

Claim 16 provides for a data storage media that includes program data for controlling a first computer entity to perform a method. The method, in turn, includes, *inter alia*, operating a peer to peer protocol, and operating a process for managing a second computer entity. The process utilises a resource of the first computer entity, and is invoked when the resource is not being used by a service application at a higher level layer than the peer to peer protocol.

The Pabla et al. patent does not appear to disclose a method that includes operating a process that **utilises a resource of the first computer entity**, and is **invoked when the resource is not being used** by a service application at a higher level layer than the peer to peer protocol, as recited in claim 16. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 16.

Claim 17 provides for a method performed by a first computer entity having a set of computing resources and a higher level service provided by a service application. The method includes, *inter alia*, operating a peer to peer protocol, and operating a process for managing a second computer entity. The process utilises the set of computing resources, and is invoked when the set of computing resources is not being used by a service application at a higher level layer than the peer to peer protocol.

The Pabla et al. patent does not appear to disclose a method that includes operating a process that **utilises a set of computing resources**, and is **invoked when the set of computing resources is not**

being used by a service application at a higher level layer than the peer to peer protocol, as recited in claim 17. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 17.

Claim 18 depends from claim 17. By virtue of this dependence, claim 18 is also novel over the Pabla et al. patent.

Claim 19 provides for a method performed by a first computer entity. The method includes, *inter alia*, operating a process for managing a second computer entity, in response to receipt of a service request from a third computer entity.

The Pabla et al. patent does not appear to disclose a first computer entity operating a process for managing a second computer entity, **in response to receipt of a service request from a third computer entity**, as recited in claim 19. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 19.

Claim 20 provides for a first computer entity. The first computer entity includes, *inter alia*, a network management component that operates a process for managing a second computer entity, in response to receipt of a service request from a third computer entity.

The Pabla et al. patent does not appear to disclose a network management component that operates a process for managing a second computer entity, **in response to receipt of a service request from a third computer entity**, as recited in claim 20. Accordingly, Applicants submit that the Pabla et al. patent does not anticipate claim 20.

Applicants respectfully request reconsideration and withdrawal of the section 102(e) rejection of claims 1 – 3, 5 – 7 and 10 – 20.

On page 20 of the Office Action, claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Pabla et al. patent in view of U.S. Patent No. 7,137,145 to Gleichauf (hereinafter “the Gleichauf patent”), further in view of a document by Golle (hereinafter “the Golle document”).

Claim 4 depends from claim 1. Applicants respectfully submit that the cited combination of the Pabla et al. patent, the Gleichauf patent, and the Golle document does not disclose or suggest a method that includes a first computer entity operating a process that utilises a resource of the first computer entity, and is invoked when the resource is not being used by a service application at a higher level layer than the peer to peer protocol, as recited in claim 1. Accordingly, Applicants submit that claim 1, and claim 4, by virtue of its dependence on claim 1, are both patentable over the cited combination of the Pabla et al. patent, the Gleichauf patent, and the Golle document.

Claim 8 is canceled, and as such, the rejection thereof is rendered moot.

Reconsideration and withdrawal of the section 103(a) rejection of claims 4 and 8 are respectfully requested.

On page 24 of the Office Action, claim 9 is rejected. However, claim 9 is canceled, and as such, the rejection thereof is rendered moot. Accordingly, Applicants are requesting a withdrawal of the rejection of claim 9.

As mentioned above, Applicants are amending claim 16 to address a section 101 rejection, and clarifying aspects of claims 1, 11, 16, 17 19 and 20 that are not disclosed by the Pabla et al. patent. Applicants are also amending all of the claims for one or more of (a) correcting an indefinite recital, (b) ensuring an antecedent basis for terms, (c) improving form, (d) improving grammar, or (e) deleting recitals that do not appear to be necessary for patentability.

Applicants are adding claims 21 - 26 to even further provide the claim coverage that Applicants appear to deserve based on the prior art that was cited by the Examiner. Claims 21 - 26 are each directed

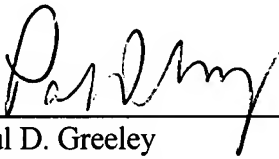
toward a feature regarding a consideration of whether a second computer entity allows a first computer entity to utilise a resource of the second computer entity. This feature is described, for example, in the specification at page 6, line 9 – page 14, line 32, with reference to FIGS. 6 and 7. A favorable consideration that also results in the allowance of claims 18 - 22 is earnestly solicited.

In view of the foregoing, Applicants respectfully submit that all claims presented in this application patentably distinguish over the prior art. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Respectfully submitted,

Date

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